

accordance with the recordkeeping provisions contained in part 762 of the EAR.

§ 750.10 Transfers of licenses for exports.

(a) *Authorization.* As the licensee, you may not transfer a license issued for the export of items from the United States to any other party, except with the prior written approval of BIS. BIS may authorize a transfer of a license for export to a transferee who is subject to the jurisdiction of the United States, is a principal party in interest, and will assume all powers and responsibilities under the license for the control of the shipment of the items out of the United States. BIS will approve only one transfer of the same license and only transfers of licenses to export items.

(b) *How to request the transfer of licenses—(1) Letter from licensee.* You, as the licensee, must submit a letter in writing to request a transfer of a license or licenses. The letter must contain the following information:

(i) The reasons for the requested transfer;

(ii) Either a list of the outstanding license numbers or a statement that all outstanding licenses in the name of the licensee are to be transferred, and the total number of such outstanding licenses;

(iii) A list of all license applications for export to be transferred that are pending with BIS, identifying the Application Control Number for each, or other information that will assist in identifying the pending license applications;

(iv) Name and address of the person you intend to transfer the licenses and license applications to;

(v) The facts necessitating transfer;

(vi) A statement as to whether or not any consideration has been, or will be, paid for the transfer; and

(vii) Identification by name of the legal document (certificate, agreement, etc.) or other authority by which the new firm name is legally established, the new corporation or firm created, or the assets transferred and showing the effective date of such document and the state where filed or recorded.

(2) *Information from transferee.* The person to whom you wish to transfer your license(s) must provide you a signed letter, that must be submitted with your request, containing the following:

(i) That the transferee is a principal party in interest in the transaction covered by the license, or is acting as agent for a principal party in interest;

(ii) That the transferee is subject to the jurisdiction of the United States;

(iii) That the transferee assumes all powers and responsibilities under the license for the control of the shipment of the items out of the United States;

(iv) Whether any consideration has been, has not been, or will be paid for the transfer;

(v) The name and address of the foreign principal in instances where the transferee will make the export as an agent on behalf of a foreign principal; and

(vi) If the license is to be transferred to a subsidiary or firm, or if you transfer to the transferee all, or a substantial portion, of your assets or business, the transferee must certify that the legal authority changing the exporter imposes on the transferee the responsibility to accept and fulfill the obligations of the transferor under the transactions covered by the license; and

(vii) The following certification:

The undersigned hereby certifies that, if license number(s) _____ is (are) transferred in accordance with my (our) request, any and all documents evidencing the order covered by this (these) license(s) will be retained and made available upon request in compliance with the recordkeeping provisions contained in Part 762 of the Export Administration Regulations. The undersigned further certifies compliance with all requirements of the Export Administration Regulations regarding these licenses.

(c) *Notification of transfer and record-keeping.* Unless instructed otherwise by BIS, you must retain the license(s) pending notification by BIS of the action taken. If the request is approved, you must forward the license(s) to the transferee and the validated letter received from BIS authorizing the transfer. If the transfer request is not approved, the license(s) must either be returned to BIS or used by you if you so choose and have retained the legal and operational capacity fully to meet

§ 750.11

15 CFR Ch. VII (1-1-03 Edition)

the responsibilities imposed by the license(s). If your initial request is returned by BIS for additional information, after obtaining the necessary information you may resubmit your request.

[61 FR 12829, Mar. 25, 1996, as amended at 62 FR 25463, May 9, 1997]

§ 750.11 Shipping tolerances.

(a) *Applicability and use of shipping tolerances.* Under some circumstances, you may use a license issued for the export of items from the United States to export more than the quantity or value shown on that license. This additional amount is called a shipping tolerance. This section tells you, as the licensee, when you may take advantage of a shipping tolerance and the amount of shipping tolerance you are permitted to use.

(1) If you have already shipped the full amount approved on your license, you may not use this shipping tolerance provision. No further shipment may be made under the license.

(2) The amount of shipping tolerance you are permitted is based on the "Unit" specified for the item you want to export in the applicable ECCN on the CCL (see Supplement No. 1 to part 774 of the EAR). You must calculate shipping tolerance based on the applicable "Unit" whether that be Number, Dollar Value, or Area, Weight, or other Measure. You may not use any other unit that may appear on your license.

(b) *Calculating shipping tolerances.* There are three basic rules, one for items licensed by "Dollar Value", one for items licensed by "Number", and another for items licensed by "Area, Weight or other Measure".

(1) *Items licensed by "Dollar Value".* If the "Unit" paragraph in the ECCN applicable to your item reads "\$ value" or "in \$ value", there is no shipping tolerance. You may not ship more than the total dollar value stated on your license.

(2) *Items licensed by "Number".* If the "Unit" paragraph in the ECCN applicable to your item reads "Number" or "in Number", there is no shipping tolerance with respect to the number of units. However, the value of all of your shipments under one license may ex-

ceed the total dollar value stated on that license by up to 25%.

(3) *Items licensed by "Area, Weight or Measure".* If the "Unit" paragraph in the ECCN applicable to your item reads "kilograms" or "square meters" or some other unit of area, weight or measure, your shipment may exceed the unshipped balance of the area, weight or other measure listed on your license by up to 10% and the total dollar value shown on your license by up to 25%, unless;

(i) Your license stipulates a specific shipping tolerance; or

(ii) Your item is controlled for short supply reasons and a smaller tolerance has been established. (See part 754 of the EAR).

(c) *Examples of shipping tolerances.—*

(1) A license authorizes the export of 100,000 kilograms of an item controlled by an ECCN where the "Unit" is stated as "kilograms", the total cost of which is \$1,000,000:

(i) *One shipment.* If one shipment is made, the quantity that may be exported may not exceed 110,000 kg (10% tolerance on the unshipped Area, Weight, or Measure balance), and the total cost of that one shipment may not exceed \$1,250,000:

\$1,000,000	(the total value shown on the license)
+250,000	(25% of the total value shown on the license)
<hr/>	
\$1,250,000	

(ii) *Two shipments.* If the first shipment is for 40,000 kg (valued at \$400,000), the second shipment may not exceed 66,000 kg (10% of the unshipped balance of 60,000 kg (6,000 kg) plus the unshipped balance), and the total cost of the second shipment shall not exceed \$850,000:

\$600,000	(the value of the unshipped balance of 60,000 kg)
+250,000	(25% of the original total value shown on the license)
<hr/>	
\$850,000	

(iii) *Three shipments.* If the first shipment is for 40,000 kg (valued at \$400,000) the second shipment is for 20,000 kg (valued at \$200,000), the third shipment may not exceed 44,000 kg (10% of the unshipped balance of 40,000 kg (4,000 kg) plus the unshipped balance), and the total cost of the third shipment can not exceed \$650,000: